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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* WOLFGANG MODEREGGER and CHRISTIAN  
STEINLEHNER

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Appeal 2008-004394  
Application 09/944,379  
Technology Center 3600

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Decided: May 24, 2010

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Before MURRIEL E. CRAWFORD, HUBERT C. LORIN, and JOSEPH A.  
FISCHETTI, *Administrative Patent Judges*.

FISCHETTI, *Administrative Patent Judge*.

DECISION ON APPEAL

### STATEMENT OF THE CASE

Appellants seek our review under 35 U.S.C. § 134 of the Examiner's final rejection of claims 1-43. Claims 44-48 and 57 and 58 are cancelled. We have jurisdiction under 35 U.S.C. § 6(b) (2002).

Claim 1, reproduced below, is representative of the subject matter on appeal.

1. A computer-implemented method for fulfilling an invitation for bids of at least one performance to be effected by a bidder against payment, comprising:

providing a database, comprising at least one performance description and at least one price description for each of a plurality of predetermined performances;

generating a list of unpriced performances desired by a buyer by selecting at least one of the predetermined performances from the database and by including the respective performance description in the list of performances;

forwarding the list of unpriced performances to a plurality of bidders;  
receiving a bid from at least one of the plurality of bidders, each received bid including a bid price input to a bid mask by the bidder and assigned to at least one performance description of the list of unpriced performances, the bid price stating the price to be paid to the bidder for effecting the respective performance by the bidder;

evaluating the received bids and selecting a bid from the bids received;

and

updating the database such that, for each performance of the generated list of performances for which a bid is selected, the price description in the database corresponding to said performance is modified to reflect the selected bid, wherein at least the updating is performed by a computer.

### THE REJECTION

The Examiner relies upon the following as evidence of unpatentability:

Fields	US 2002/0069154 A1	Jun. 6, 2002
Slaight	US 2002/0077954 A1	Jun. 20, 2002
Vashistha	US 2001/0051913 A1	Dec. 13, 2001

The Examiner rejected claims 1-3, 7-10, 13-15, 18, 19, 26, 33, 38-41, and 43 under 35 U.S.C. §102(e) as being anticipated by Fields.

The Examiner rejected claims 4-6, 10-12, 16, 20, 21, 34-36, and 42 under 35 U.S.C. §103(a) as unpatentable over Fields.

The Examiner rejected claims 17 and 27-32 under 35 U.S.C. §103(a) as being unpatentable over Fields in view of Slaight.

The Examiner rejected claims 22-25 and 37 under 35 U.S.C. §103(a) as being unpatentable over Fields in view of Vashistha.

Claim 1, the sole independent claim, recites in pertinent part:  
*receiving a bid from at least one of the plurality of bidders, each received bid including a bid price input to a bid mask by the bidder.*

The Specification describes:

Each bidder receives on the monitor of his/her computer 25 a representation of a mask 39 in which the complete list of individual performances of the list of performances 31 are listed, with a space 41 on the right side of each performance description for entering a bid price.... Utilizing the description and instruction information provided across the platform, the bidder enters his/her bid prices in the mask, correlating each price with each respective performance item the bidder is interested in fulfilling.

(Specification 19:¶ [0045]).

We thus find that the bid mask is a template into which the bidder enters his or her bid price for a performance listed in the mask for which the bidder wishes to work.

Fields discloses however that the bid price is generated by a computer system and is not input to a bid mask by the bidder. “The proposal and fee formulator 72 is the heart of the system and will assist clients in formulating their request for proposal for a variety of legal services. The proposal and fee formulator comprises a series of input screens supported by a back end application.” (Fields, ¶ [0071]) In Fields, the client inputs descriptive data about the size and complexity of the performance, and a fee quote is automatically generated:

[R]espective questions which the client is then asked to answer various questions for each of the categories chosen. As shown in FIG. 14 for example, the client is asked to answer specific questions related to a Mechanical invention. Each

of these questions is used to evaluate the complexity of the invention and to add respective dollar values to the ultimate fee quote.

(¶ [0076])

Fee formulators are used to generate the price quote based on tables which in turn are based upon “a series of feegrids 172, maintained in the database 14 based upon empirical evidence of regional and national fees for intellectual property services. One such source of fee information is the published economic survey of the American Intellectual Property Law Association.” (Fields, ¶ [0080])

Fields discloses that the attorney bidder responds only by accepting, rejecting or deleting the RFP. (¶ [0088]) Thus, Fields does not meet the limitation of *each received bid including a bid price input to a bid mask by the bidder* because the bidder does not input the price - the automated fee formulator does this. Rather, in Fields the bidder merely accepts or rejects the RFP which has the bid price.

Since claims 2-43 depend from claim 1, and since we cannot sustain the rejection of claim 1, the rejections of claims 2-43 likewise cannot be sustained.

### CONCLUSIONS OF LAW

We conclude the Appellants have shown that the Examiner erred in rejecting claims 1-43.

Appeal 2008-004394  
Application 09/944,379

DECISION

The decision of the Examiner to reject claims 1-43 is REVERSED.

MP

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